

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

TINA JOURNEY,

Plaintiff,

V.

CIVIL ACTION NO. 3:04-0940

LAKIN CORRECTIONAL  
FACILITY MEDICAL DEPARTMENT  
and TAMMY LYNCH,

Defendants.

**FINDINGS AND RECOMMENDATION**

In this civil rights action, filed under the provisions of 42 U.S.C. §1983, plaintiff alleges that the defendants were deliberately indifferent to her medical needs. On November 15, 2004, the defendant, Lakin Correctional Facility Medical Department, filed a motion to dismiss, with supporting memorandum. By order entered February 15, 2005, plaintiff was advised of her right to respond to the motion within fourteen days from the date of entry of the Court's order, and that failure to respond would result in the entry of a judgment denying the relief sought in the complaint and dismissal of the action. Although the time provided for filing a response to the motion has passed, plaintiff has failed to respond in any manner to the motion.

**RECOMMENDATION**

In light of the foregoing, it is **RESPECTFULLY RECOMMENDED** that defendant's motion to dismiss be granted and that the complaint, insofar as it names Lakin Correctional Facility Medical Department as a defendant, be dismissed with prejudice.

Plaintiff and defendant are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provisions of Rule 72(b), Fed.R.Civ.P., the parties may, within thirteen days from the date of filing of these Findings and Recommendation, serve and file written objections with the Clerk of this Court identifying the portions of the Findings and Recommendation to which objection is made and the basis for such objection. The Judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. §636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

The Clerk is directed to file these Findings and Recommendation and mail a copy of the same to plaintiff and counsel of record.

DATED: June 1, 2005

  
MAURICE G. TAYLOR, JR.  
UNITED STATES MAGISTRATE JUDGE